

Agenda Item Form

Agenda Date: 9/23/04

Districts Affected: All

Dept. Head/Contact Information: Deborah Hamlyn, 541-4242

Type of Agenda Item:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Staffing Table Changes | <input type="checkbox"/> Board Appointments |
| <input type="checkbox"/> Tax Installment Agreements | <input type="checkbox"/> Tax Refunds | <input type="checkbox"/> Donations |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer | <input type="checkbox"/> Item Placed by Citizen |
| <input type="checkbox"/> Application for Facility Use | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements | <input checked="" type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application |
| <input type="checkbox"/> Other _____ | | |

Funding Source:

- ☐ General Fund
- ☒ Grant (duration of funds: _____ Months)
- ☐ Other Source: _____

Legal:

- ☐ Legal Review Required Attorney Assigned (please scroll down): John Nance ☒ Approved ☐ Denied

Timeline Priority: ☐ High ☒ Medium ☐ Low # of days: _____

Why is this item necessary:

For the Arts In Education Program: artistic fees paid by YISD and EPISD

Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

Artistic fees have already been allocated in the FY05 budget

Statutory or Citizen Concerns:

None

Departmental Concerns:

None

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign the following Agreement for the following artist to be accepted as part of the FY 2005 Arts in Education Program of the Arts and Culture Department as recommended by the Arts and Culture Department's Advisory Board and Staff:

1. Carmel Fenter

ADOPTED THIS 28th day of September, 2004.

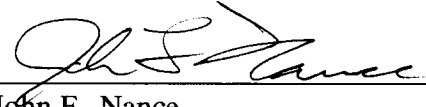
THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

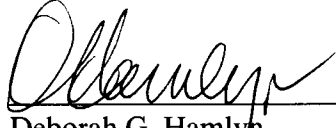
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:



Deborah G. Hamlyn
Deputy CAO, Quality of Life Services

STATE OF TEXAS)
)
COUNTY OF EL PASO) AGREEMENT

This Agreement is made and entered into this 28th day of September, 2004, by and between the CITY OF EL PASO, Texas, a municipal corporation, hereinafter referred to as "City," and **CARMEL FENTER**, hereinafter referred to as "Contractor." The parties hereby agree as follows:

1. Contractor will provide residency activities during the 2004-2005 school year as accepted by the City's Arts and Culture Department (ACD) Advisory Board and outlined in the 2004-2005 ACD Arts in Education catalog.

2. In consideration of the services to be provided by Contractor hereunder, the City agrees to pay the sum of FORTY AND NO/100 DOLLARS (\$40.00) per hour/per artist, flat, guaranteed and inclusive, for each class presentation at an elementary or middle school in the El Paso and Ysleta Independent School Districts, which is generally forty five (45) minutes for a maximum of thirty students (30) students. Contractor shall provide the City with an invoice for the contracted amount. Payment will be made in accordance with the policies and procedures of the City Comptroller's Department. Payment will be authorized only after the presentation has been completed and an evaluation form is signed by and received from the contact teacher. No payments will be authorized without a completed evaluation form. Scheduling and payments will be subject to some restrictions and the availability of funds. The Contractor will present a final evaluation form to the contact teacher at each presentation and will return the completed form to the ACD office within seven (7) business days following the presentation for payment authorization.

3. No follow-up classes will be permitted. Presentations and activities will follow descriptions outlined in the program catalog, as accepted by the ACD Advisory Board. If more

than 30 students are scheduled for a presentation, the Contractor has the right to refuse to make the presentation. The Contractor must notify the ACD Staff of the excess number of students.

4. The City will handle requests for residency activities and scheduling of those activities with schools requesting Contractor's presentation. The Contractor will not independently accept assignments from schools under the auspices of the ACD Arts in Education Program which have not been arranged by ACD staff. If the Contractor is asked for additional presentations at the time of the school visit, the Contractor will direct the request to ACD staff.

5. Contractor will provide for all necessary arrangements, presentations and activities. The City will not be required to provide any assistance other than scheduling the residency activities and payment for the presentation(s).

6. The Contractor will communicate with the contact teacher by telephone immediately upon receiving confirmation from ACD staff, to ascertain purpose of visit, curriculum needs, equipment needs, class size and setup, and other pertinent details regarding the Contractor's presentation.

7. The Contractor will keep all scheduled appointments. The Contractor shall make all reasonable efforts to minimize changes and cancellations of appointments. If the Contractor cannot keep an appointment and needs to change the date or time of the appointment, the Contractor must contact the teacher and ACD Coordinator as soon as possible, but not less than three (3) days in advance of the scheduled visit. Rescheduling should be limited to only those instances of absolute necessity. The Contractor must notify ACD Staff as soon as the Contractor is aware of the need to reschedule.

8. This Agreement is between the Contractor and the City and shall not be assigned or subcontracted to any third party or entity without the express written consent of the City and the appropriate school representative.

9. Contractor must advise the teacher that he/she must remain in the classroom throughout the duration of the workshop. Contractor is not obligated to continue with the workshop if the teacher leaves the classroom.

10. It is expressly understood and agreed by and between the parties that Contractor is an independent contractor and is not an officer, agent or employee of the City. Nothing herein shall be construed as creating the relationship of employer and employee between the City and the Contractor. The City shall not be subject to any obligations or liabilities of Contractor incurred in the performance of this Contract.

11. The Contractor agrees to indemnify and hold the City harmless with respect to any and all claims, liabilities and obligations directly or indirectly arising out of, caused by, or resulting from, in whole or in part, (i) the performance of the Contractor, or (ii) any act, omission, or breach on the part of the Contractor.

12. For the purpose of this Agreement, the Contractor shall be held responsible for obtaining appropriate permission to use and incorporate copyrighted materials into the presentation. In addition, the Contractor shall indemnify, defend, and hold the City harmless from any claims or causes of action which might arise from use of any material.

13. Contractor will not conduct or encourage the sale of merchandise related to Contractor's work in conjunction with the performance of residency activities under this Agreement. Merchandise may include, but is not limited to, books, records, cassette tapes, souvenirs, and artwork.

14. Contractor will be responsible for payment of all federal, state, and local taxes in connection with the performance of this Agreement.

15. Group presentations should be limited to no more than three artists per workshop, including musical presentations.

16. Contractor will provide oral credit for the City at each presentation with the following credit line: “. . . THIS ARTS-IN-EDUCATION WORKSHOP IS SPONSORED BY THE CITY OF EL PASO ARTS AND CULTURE DEPARTMENT AND THE EL PASO AND YSLETA INDEPENDENT SCHOOL DISTRICTS.” Contractor will also include the aforementioned credit line in any printed materials used for promotion or implementation of activities associated with the performance of this Agreement.

17. Any notices required under this Contract shall be sufficient if sent by certified mail, return receipt requested, to the parties as follows:

CITY: City of El Paso
Attention: Mayor
2 Civic Center Plaza, 10th Floor
El Paso, TX 79901-1196

COPY TO: Arts and Culture Department
2 Civic Center Plaza, 6th Floor
El Paso, TX 79901-1196

CONTRACTOR: Carmel Fenter

or to such other addresses as the parties may indicate to each other in writing.

18. This contract does not become binding on either party until signed by the Contractor and the Mayor or the Mayor pro-tem of the City of El Paso.

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

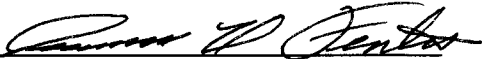
CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

CONTRACTOR:


Signature: 


Print Name: CARMEL V FENTER

Title: CCL Designs + Fine Arts
Owner

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


John F. Nance
Assistant City Attorney


Deborah G. Hamlyn
Deputy CAO, Quality of Life Services